

**IN THE DRAWINGS**

Replacement drawings are supplied herewith. Enclosed is a complete set of drawings marked "Replacement Sheet" to replace the originally filed informal drawings.

**REMARKS**

This responds to the Final Office Action mailed on July 9, 2008.

Claims 1 and 9 are amended, claims 4 and 12 were previously canceled, and no claims are added; as a result, claims 1-3, 5-11 and 13-16 remain pending in this application.

**Drawing Objections**

The drawingss were objected to as being informal. Submitted herewith are formal replacement sheets of drawings for Figures 1-10. No amendments have been made to the drawings.

**Specification Objections**

The amendment filed November 24, 2006 was objected to under 35 U.S.C. 1329(a) as introducing new matter into the disclosure. While Applicant disagrees that the amendment recites new matter, in view of the fact that the operation of the method is described various portions of the specification and in order to expedite prosecution, Applicant has amended Table 6 of the specification.

**Claim Objections**

Claim 1 was objected to for informalities. Applicant has amended claim 1 as suggested in the Office Action such that the phrase "at least on" now reads "at least one." Applicant respectfully requests removal of the objection to claim 1.

**§101 Rejection of the Claims**

Claims 1-3 and 5-8 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office Action stated:

the claimed subject matter is broader than the disclosure such that it does not require a practical application to produce a useful, concrete, and tangible result. More specifically, the claimed subject matter provides for allocating the defined set of components to computer hardware resources. However, the recited "computer hardware resources" may not have anything to do with the recited "computing resources" and they could be,

for example, printers, cables, etc., which when the defined set of components is allocated does not appear to have a practical application providing a useful, concrete, and tangible result.

Applicant has amended claims 1 and 9 to clarify characteristics of the computing resources and to clarify that the computer hardware resources include the computing resources. In view of the amendments, Applicant respectfully submits that the claims are directed to a particular machine for determining an allocation of software and data components in a distributed system and that the claims provide a useful, concrete and tangible result. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1-3 and 5-8 under 35 U.S.C. § 101.

§112 Rejection of the Claims

Claims 1-3, 5-11 and 13-16 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. In particular, the Office Action stated that the term “preallocated data and code partitions” lacked antecedent basis in claims 1 and 9. Applicant has amended claims 1 and 9 such that the word “preallocated” has been deleted. Applicant respectfully submits that there is antecedent bases for “data and code partitions” as the element is recited in line 9 of claim 1 and line 10 of claim 2. Additionally, Applicant has amended claim 9 as suggested in the Office Action to replace control partitions with code partitions. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1-3, 5-11 and 13-16 under 35 U.S.C. § 112, second paragraph.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date: January 9, 2009

By



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Reg. No. 41,136

**CERTIFICATE UNDER 37 CFR § 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 9<sup>th</sup> day of January, 2009.

Rodney L. Lacy

Name

Signature

